

ORIGINAL

Before the  
Copyright Royalty Board  
Library of Congress  
Washington D.C.

In the Matter of

DIGITAL PERFORMANCE RIGHT IN  
SOUND RECORDINGS AND EPHEMERAL  
RECORDINGS

Docket No. 2005-1 CRB DTRA

**Reply Proposed Findings of Fact and Conclusions of Law of SBR Creative Media,  
Inc.**

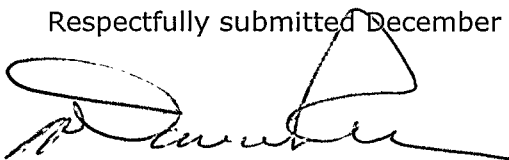
**Reply Proposed Findings of Fact**

1. SoundExchange stated in its Proposed Findings of Fact: "Moreover, Mr. Rahn acknowledged that sound recordings are sometimes compensated at a higher rate than musical compositions in analogous situations. Rahn Dir. Test. at 89. He also acknowledged that he did not consider this fact when proposing that sound recordings and musical compositions should be compensated at the same rate. Rahn Dir. Test. At 89-90." (Proposed Findings of Fact By SoundExchange, Inc. at 1504).
2. Mr. Rahn went on to explain he did not he did not consider in his analysis occasions where sound recordings may be compensated at a higher rate – such as synch rights, master use, music videos and ringtones -because he did not consider those situations to be analogous to webcasting or broadcasting. (Rahn Dir. Test. at 98, 110-111).

**Reply Proposed Conclusions**

1. DMCA-compliant webcasts operating under provisions of Section 114(f)(2) are analogous in material respects to radio broadcasts of similar programming.
2. Sound recordings are not compensated at a higher rate than musical compositions on radio broadcasts.

Respectfully submitted December 15, 2006



**David W. Rahn**  
**Co-President**  
**SBR Creative Media, Inc.**



**CERTIFICATE OF SERVICE**

I, David W. Rahn, hereby certify that a copy of the foregoing **Proposed Findings of Fact and Conclusions of Law by SBR Creative Media** has been served this 15<sup>th</sup> day of December, 2006 by electronic mail and overnight express delivery on the following persons:

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**David W. Rahn**



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December 15, 2006

**VIA HAND DELIVERY**

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101 Independence Avenue, S.E.  
Room LM-401  
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Copyright Royalty Board

**RE: Reply Proposed Findings of Fact and Conclusions of Law**

Dear Sirs,

Please find enclosed five (5) copies and a receipt copy of Reply Proposed Findings of Fact and Conclusions of Law of SBR Creative Media, Inc.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Rahn". The signature is fluid and cursive, with a large loop at the end.

David W. Rahn

Enclosure